

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ROCKWELL SOLUTIONS LIMITED

Plaintiff,

v.

GENERAL MILLS SALES, INC.

Defendant.

Case No. 2:14-cv-186

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Rockwell Solutions Limited files this Complaint against General Mills Sales, Inc. for infringement of United States Patent No. 7,381,453.

THE PARTIES

1. Plaintiff Rockwell Solutions Limited (“Rockwell”) is a Scottish privately-held, family company with its principal place of business at Brunel Road, Dundee DD2 4TG, Scotland, United Kingdom. Rockwell is an operating entity that manufactures specialty packaging, including packaging for the food industry. Most relevant to the present action, Rockwell manufactures the EasySteam brand packaging, which allows food to be steam-cooked in a microwave.

2. Defendant General Mills Sales, Inc. (“GMS”) is a Delaware corporation with its principal place of business at 1 General Mills Blvd Minneapolis, MN 55426. GMS’s registered agent for service in Texas is National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. On information and belief, GMS is a wholly-owned subsidiary of General Mills, Inc., which through its subsidiary General Mills Marketing, Inc., owns the Green Giant®

brand and its steams-in-the-bag products under various trademarks and brand names (*e.g.*, Valley Fresh Steamers®) (collectively “Steamers”).

3. Defendant GMS does business in the Eastern District of Texas. Specifically, Defendant sells the infringing products at retailers and wholesalers throughout the District, including but not limited to sales in Walmart stores in Marshall, Texas; Sherman, Texas; Plano, Texas; Beaumont, Texas; Tyler, Texas; and Texarkana, Texas. Defendant’s products—including the infringing products—are sold and offered for sale at these retailers. For example, Wal-Mart’s website indicates that various versions of Green Giant Steamers were in stock in the Wal-Mart Supercenter in Marshall, Texas as of the date of preparation of this complaint.

NATURE OF THE ACTION

4. This is a civil action for infringement of United States Patent No. 7,381,453 (the “Patent-in-Suit”), arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because GMS committed acts of infringement in the United States, including use and offers for sale in and directed to this District. Additional acts of infringement have occurred within this District, in that GMS and/or its affiliates sell GMS’s products—including the infringing products—in this District and elsewhere in the State of Texas and are deemed to reside in this District for purposes of this action.

7. This Court has personal jurisdiction over GMS and venue is proper in this district because GMS has committed, and continues to commit, acts of infringement in and directed toward

the State of Texas, including in this District and/or has engaged in continuous and systematic activities in the State of Texas, including in this District, as have its affiliates.

THE PATENT-IN-SUIT

8. The Patent-in-Suit, entitled "Packing File," was duly and legally issued by the United States Patent and Trademark Office on June 3, 2008. A copy of the Patent-in-Suit is attached hereto as Exhibit A.

9. Rockwell is the exclusive owner of all rights, title, and interest in the Patent-in-Suit, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

INFRINGEMENT OF THE PATENT-IN-SUIT

10. Rockwell incorporates paragraphs 1 through 10 by reference as if fully stated herein.

11. The Patent-in-Suit is valid and enforceable.

12. Defendant has directly infringed, and continues to directly infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering for sale, and/or importing products and/or products encompassed by those claims.

13. Third parties, including GMS' affiliates, agents, and retailers (*e.g.*, Wal-Mart stores and Target stores) have infringed, and continue to infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by using, selling, and/or offering for sale in the United States, and/or importing into the United States, products supplied by GMS.

14. Upon information and belief, based on the information presently available to Rockwell, absent discovery, and in the alternative to direct infringement, Rockwell contends that Defendant has—since receiving notice of the filing of this Complaint—had knowledge of the Patent-in-Suit and has induced infringement and continues to induce infringement, of one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(b). Defendant has since receiving notice of the filing of this Complaint actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the Patent-in-Suit by making, using, importing, and selling or otherwise supplying products to third parties, including—at a minimum—its retailers (*e.g.*, Wal-Mart stores and Target stores), with the knowledge and intent that such third parties will use, sell, offer for sale, and/or import, products supplied by Defendant to infringe the Patent-in-Suit; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the products and/or the creation and dissemination of promotional and marketing materials, supporting materials, instructions, training, product manuals, and/or technical information related to such products.

15. GMS's Green Giant Valley Fresh Steamers[®] is an example of an infringing product.

16. Rockwell has been and continues to be damaged by GMS's infringement of the Patent-in-Suit.

17. GMS's actions complained of herein are causing irreparable harm and damages to Rockwell and will continue to do so unless and until GMS is enjoined and restrained by the Court.

18. GMS's conduct in infringing the Patent-in-Suit renders this case exceptional within the meaning of 35 U.S.C. § 285.

JURY DEMAND

19. Plaintiff Rockwell hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Rockwell prays for judgment as follows:

- A. That GMS has infringed one or more claims of the patent-in-suit;
- B. That GMS account for and pay all damages necessary to adequately compensate Rockwell for infringement of the patent-in-suit, such damages to be determined by a jury, and that such damages be awarded to Rockwell with pre-judgment and post-judgment interest;
- C. That GMS and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or actively participating with them, be permanently enjoined from directly or indirectly infringing the patent-in-suit; or, in the alternative, judgment that GMS account for and pay to Rockwell an ongoing post-judgment royalty reflecting GMS' deliberate continuing infringement;
- D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Rockwell be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and
- E. That Rockwell be awarded such other and further relief as this Court deems just and proper.

DATED: March 5, 2014

Respectfully submitted,

/s/ David A. Bailey
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